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**Minutes**  
**Nexus Committee Meeting (Emergency)**  
**October 11, 2017, 2:30 p.m. EDT**  
**Via Teleconference**

List of attendees:

AL-Christy Vandevender  
AR-Deanna Munds-Smith  
CT-John Kutsukos  
FL-Cindy Burgess  
GA-Steven Alvarez  
IA-Adam Hume  
ID-Randy Tilley, Phil Skinner  
KS-Nathan Hoepfner  
KY-Dan Bork  
MA-Michael Fatale, Sharen Brown  
MI-Pat Calore  
MN-Wendy Rozinka  
MO-Kayla (Jeffers) Kueckelhen  
NC-Lennie Collins, Eric Wayne  
NE-Scott Spilinek  
NJ-Lee Evans  
OK-Marjorie Welch  
TN-Sharon Jackson, Joan Cagle  
TX-Rusty Johnson  
UT-Michael Christensen  
WI-Jayne Kulberg  
WV-Ellen Golden  
MTC Staff-Richard Cram, Helen Hecht  
General Public: Sylvia Dion, Mike Dillon, Jim Tauber, Christanna Taylor, Americo Rodriguez, Kevin Huang

Chair Christy Vandevender, Alabama, brought the meeting to order at 2:30 pm EDT, introductions of attendees were made, and public comment was invited.

**Public Comments Summary**

**Paul Rafelson**– attorney representing Amazon sellers. It is important to understand the Amazon seller experience. He spoke with a CO business owner who started new business last year and realized a tax issue exists. None of the sellers oppose the idea of collecting tax. The CO company went through Amazon FBA Services. Sellers cannot comply with what states are asking them to do.

Sellers want states to understand what it means to be an Amazon seller. States may be left with only large Amazon sellers. He has spoken with several local business representatives regarding their opinion. He has spoken with a large home store in CT who indicated that customers come to their store, speak with sales person, etc. and end up buying on Amazon.

Wouldn't it be better if the marketplace collects the tax, instead of have the seller collect the tax? Consider all facts about your economy. SC is asking Amazon and other marketplace seller to collect tax.

**Mathew Turner** – Seller on Amazon in TX. Revenue has grown to \$1.2M from \$600 start up. No seller understands how to handle the taxes. Selling community has no idea how to deal with this, nor the money to hire an accountant, etc. This is a large burden to sellers. When seller sends goods to Amazon, the seller is “partial owner”. It makes most sense to have Amazon collect tax.

**Sylvia Dion** – SALT firm – deals with Amazon FBA and other marketplace sellers. She focuses with international and other e-commerce entities. Non-U.S. clients are very concerned about being in compliance with Sales Tax in multiple states. They would like to comply, it is just taking additional time for them, as non-U.S. clients don't have a FEIN. IRS only allows CPA to request 1 FEIN per day. Federal tax treaties are an issue. Allow sellers additional time to submit applications.

**David Stanton** – CA, individual lost job but created a business that supports family. Many sellers on Facebook all want Marketplace, such as Amazon, to collect tax. Seller doesn't have any say regarding where inventory is stored. Half of Amazon's business is attributed to 3<sup>rd</sup> party sellers.

**Joe Jones** – NJ, has a business and is using Amazon - FBA services. It is very difficult for sellers to determine where inventory is stored. Information provided by Amazon is not clear regarding where inventory is stored. Cannot keep up with large retailers if FBA sellers are required to collect tax. Amazon should collect tax.

**Spencer Evans** - with PWC (SALT practitioner) – October 17<sup>th</sup> deadline is difficult to meet due to other tax filing obligations. Entities don't have resources to focus on sales tax. Accounting firms are focusing on income tax due dates now. Would like to see deadline extended by a couple of months to allow more sellers to participate.

**Bill McKlowski** – participates in FBA marketplace as a 3<sup>rd</sup> party seller in MN. He read the SC decision. SC has assessed Amazon rather than marketplace sellers. Amazon is the seller. Amazon is a consignment seller. Would you allow consignment stores in your state to pass the burden of collecting sales tax on to consignees? If the 3<sup>rd</sup> party sellers do not all voluntarily collect, the states will lose millions of dollars.

**David Geist** – Seller on Amazon FBA marketplace. There are a very small percent of sellers that are even aware of this program. Amazon should be collecting the tax since they are the sellers. He appreciates states participating and is very grateful to states that are waiving look-back period. He would like extension on application period.

Chair Christy Vandevender advised that the purpose of the emergency meeting was to consider: (1) whether to extend the October 17, 2017 deadline for receiving applications for voluntary disclosure under the online marketplace seller voluntary disclosure initiative; and (2) whether the deadline for requiring qualifying sellers under the initiative to register with the state to commence collection of sales/use tax by December 1, 2017 should be adjusted. Chair Vandevender called for a roll call vote of the Committee to determine in accordance with Section 13 on “Emergency Meetings” of the Multistate Tax Commission's Public Participation Policy, whether, by majority vote of the Committee, an “emergency situation” exists justifying application of the Section 13 emergency meeting notice procedures. Chair Vandevender requested that Richard Cram, National Nexus Program Director, explain how Section 13 defines an

“emergency situation” that would justify application of the emergency meeting notice procedures provided in Section 13. Mr. Cram explained that Section 13 defines an “emergency situation” as follows: actions necessary to ensure the availability to a taxpayer of Commission procedures to resolve a tax dispute with the Commission or a State or States where a decision must be made in less than 10 days. Mr. Cram further explained that vote would be to determine whether the purpose of this meeting met the definition of an “emergency situation” as defined in Section 13. The results of that roll call vote were as follows (yes—emergency situation exists; no—no emergency situation exists):

Yes: AL, AR, CT, FL, GA, ID, IA, KS, KY, KY, MA, MI, MN, MO, NE, NJ, NC, ND, OK, TN, TX, UT, WI

No: none

Chair Vandevender declared that in view of the vote, an emergency situation existed, justifying application of the emergency meeting notice provisions in Section 13.

Richard Cram presented a status report on the online marketplace seller voluntary disclosure initiative, stating that 285 online marketplace sellers had applied to date. Mr. Cram recommended that the application period not be extended, due to concerns that MTC staff may not have the resources to timely handle a large number of additional applications that could be received during an extended application period. Mr. Cram did recommend that the December 1, 2017 deadline for requiring qualifying sellers to register with the state to commence collection of sales/use tax be adjusted to provide that the seller must return the completed agreement and registration forms to MTC staff by December 1, 2017 or 30 days from the date receiving notice that the state has signed the voluntary disclosure agreement, whichever date is later.

Ellen Golden, WV, moved that the terms of the online marketplace voluntary disclosure initiative be amended as follows: that the December 1, 2017 deadline for requiring qualifying sellers to register with the state to commence collection of sales/use tax be changed to provide that the seller will be required to return the completed agreement and registration forms to MTC staff by December 1, 2017 or 30 days from the date receiving notice that the state has signed the voluntary disclosure agreement, whichever date is later. Chair Vandevender called for a roll call vote on that motion, with the results as follows (yes-in favor; no-opposed; abstain):

Yes: AL, AR, CT, IA, KY, MA, MI, MN, MO, NE, NC, TN, TX, UT, WI

No: FL, KS, NJ, OK

Abstain: GA, ID

Chair Vandevender declared that in view of the 15-4-2 vote, the motion passed.

Randy Tilley, ID, moved that the application period for the online marketplace seller voluntary disclosure initiative be extended to November 1, 2017. Chair Vandevender called for a roll call vote, with the results as follows (yes-in favor; no-opposed; abstain):

Yes: AL, AR, CT, ID, IA, KY, MA, MN, NE, NJ, NC, OK, TX, UT

No: FL, KS, TN

Abstain: GA, WV

Chair Vandevender declared that in view of the 15-3-2 vote, the motion passed.

Following the conclusion of the voting on the two motions, Chair Vandevender adjourned the meeting.